

ARTHUR J. CASEY [State Bar No. 123273]
acasey@caseylawsj.com
DONALD P. GAGLIARDI [State Bar No. 138979]
dgagliardi@caseylawsj.com
ELISABETH A. HANSEN [State Bar No. 183816]
ehansen@caseylawsj.com
CASEY LAW GROUP
16450 Los Gatos Boulevard, Suite 110
Los Gatos, California 95032
Telephone: (408) 660-3102
Facsimile: (408) 660-3105

Attorneys for Defendant
COSTCO WHOLESALE CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MICHELLE C. GOLDMAN and MILTON
GOLDMAN,

Plaintiffs,

vs.

COSTCO WHOLESALE CORPORATION, and
DOES 1 to 100,

Defendants.

Case No.

[San Mateo County Superior Court
Case No. 19-CIV-06081]

**NOTICE OF REMOVAL BY DEFENDANT
COSTCO WHOLESALE CORPORATION**

[Diversity of Citizenship,
28 U.S.C. §§ 1332, 1441 & 1446]

TO THE CLERK OF THE ABOVE-NAMED FEDERAL DISTRICT COURT:

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1332, 1441 & 1446, defendant Costco Wholesale Corporation, by and through its undersigned counsel, hereby removes Case No. 19-CIV-06081, pending in the Superior Court of California for the County of San Mateo, to the United States District Court for the Northern District of California, San Francisco Division.

Removal is based on complete diversity of citizenship, because diversity of citizenship exists between plaintiffs Michelle C. Goldman and Milton Goldman (collectively, "Plaintiffs"), and the lone named defendant, Costco Wholesale Corporation, and the amount in controversy exceeds the jurisdictional minimum. *See*, 28 U.S.C. § 1332.

I. BACKGROUND.

On October 15, 2019, this civil action was commenced in the Superior Court of the State of California in and for the County of San Mateo, *Michelle C. Goldman and Milton Goldman v. Costco Wholesale Membership, Inc. and Does Nos. 1 to 100*, Case No. 19-CIV-06081.

On January 8, 2020, defendant Costco Wholesale Corporation was served, through its agent for service in California, CT Corporation, with the Summons and the Complaint.

Plaintiffs allege in their California Judicial Council form Complaint that Costco Wholesale Corporation is liable for negligence as the owner of the Costco retail warehouse located at 1001 Metro Center Blvd. in Foster City, California, in which an unnamed Costco Wholesale Corporation employee collecting flatbed shopping carts pushed a cart into plaintiff Michelle C. Goldman. The flatbed cart allegedly “hit Ms. Goldman’s legs near her knees which caused her to fall onto the flatbed cart, suffering bodily injuries. *Complaint, Prem. L-1*. Costco Wholesale Corporation was allegedly negligent in the hiring, training and supervising of the employee. *Id., Prem. L-5(b)*. Ms. Goldman seeks damages for hospital and medical expenses and general damages, as well as loss of consortium. *Id., ¶ 11*. Her husband, Milton Goldman, also seeks damages for loss of consortium. *Id., GN-1*.

In accordance with 28 U.S.C. § 1446(a), a copy of all process, pleadings and orders received by Defendants, including the Summons and Complaint, are attached hereto and incorporated herein by reference as **Exhibit A**.

II. THIS NOTICE OF REMOVAL IS TIMELY FILED.

The removal of this civil action to this Court is timely under 28 U.S.C. § 1446(b) because this Notice of Removal is filed within thirty (30) days after January 8, 2020, which is the date defendant Costco Wholesale Corporation, through its agent for service of process, first received the Summons and Complaint in this action.

The United States District Court for the Northern District of California, San Francisco Division, is the proper place to file this Notice of Removal under 28 U.S.C. § 1441(a) because it is the federal district court that embraces the place where the original state court action was filed and is pending.

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1 **III. THIS COURT HAS DIVERSITY OF CITIZENSHIP JURISDICTION.**

2 Plaintiffs and lone named defendant Costco Wholesale Corporation are citizens of different
3 states. On information and belief, Michelle C. Goldman and Milton Goldman are a married couple
4 residing together in or near San Mateo County, California. Costco Wholesale Corporation is a
5 corporation formed under the laws of State of Washington with its principal place of business in
6 Issaquah, Washington.

7 On information and belief, Plaintiffs' claim for damages in unspecified amounts exceeds the
8 jurisdictional minimum of seventy-five thousand dollars (\$75,000) for diversity jurisdiction in federal
9 court. Although the Complaint does not specify the amount of damages sought, counsel for Costco
10 Wholesale Corporation has received a settlement demand well in excess of \$75,000.

11 Therefore, federal diversity of citizenship jurisdiction exists over this action pursuant to 28
12 U.S.C. §§ 1332.

13 **IV. ALL NAMED DEFENDANTS CONSENT TO THE REMOVAL.**

14 This Notice of Removal is filed on behalf of named defendant Costco Wholesale Corporation.
15 There are no other named defendants, only Doe defendants. Therefore, by definition, all named
16 defendants have consented to the removal of this action.

17 **V. NOTICE OF REMOVAL TO PLAINTIFF AND**
18 **THE SAN MATEO COUNTY SUPERIOR COURT.**

19 Concurrently with this Notice of Removal, Defendant Costco Wholesale Corporation will file a
20 Notice to Plaintiff of Removal of Action to Federal Court, along with a copy of this Notice of Removal
21 with the Superior Court of the State of California in and for the County of San Mateo, and in accordance
22 with 28 U.S.C. §§ 14446(d), defendant Costco Wholesale Corporation will serve a copy thereof upon
23 counsel for Plaintiffs. A copy of the prepared Notice to Plaintiffs of Removal of Action to Federal
24 Court is attached hereto and incorporated herein by reference as **Exhibit B**.

25 If any question arises as to the propriety of the removal of this action, counsel for defendant
26 Costco Wholesale Corporation respectfully requests the opportunity to present a brief and oral argument
27 in support of the position that this case is removable.
28

VI. CONCLUSION.

For the foregoing reasons, defendant Costco Wholesale Corporation respectfully requests that this civil action be, and is hereby, removed to the United States District Court for the Northern District of California, San Francisco Division, that said federal district court assume jurisdiction of this civil action, and that this Court enter such further orders as may be necessary to accomplish the requested removal and to promote the ends of justice.

Dated: January 30, 2020

CASEY LAW GROUP

By: /s/ Donald P. Gagliardi
DONALD P. GAGLIARDI
Attorneys for Defendant
COSTCO WHOLESALE CORPORATION